

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

March 1, 2019

The Honorable Sonny Perdue
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Ave SW
Washington, D.C. 20250

The Honorable David Bernhardt
Acting Secretary of the Interior
U.S. Department of the Interior
1849 C Street NW
Washington, D.C. 20240

Dear Secretary Perdue and Acting Secretary Bernhardt,

We continue to be extremely concerned about the actions taken by your agencies to advance the construction of a copper sulfide mine on the edge of the Boundary Waters Canoe Area Wilderness (BWCAW). Such a mine would severely threaten the pristine nature of the BWCAW, the most visited wilderness area in the United States, and is entirely inconsistent with the goal of good stewardship of our most special natural places.

In 2016, the U.S. Forest Service (USFS) found that building a copper sulfide mine in the Rainy River Watershed near the Boundary Waters Canoe Area Wilderness in Northern Minnesota could result in “extreme” and irreparable environmental harm in the region. The mining leases – which sit right on the border of the Boundary Waters wilderness area – were appropriately not renewed and allowed to expire. Unfortunately, in 2018, under your governance, the Bureau of Land Management (BLM) reinstated the leases and Twin Metals’ lease renewal application, the USFS cancelled its application to withdraw 234,328 acres of the watershed from mineral leasing and the associated environmental assessment, and in December 2018 the BLM proposed to renew the two leases.

As we detailed in our November 5th, 2018, letter expressing disapproval with your cancellation of the environmental review, the preponderance of evidence from past research clearly links copper sulfide mining to environmental catastrophe, and there are multitudes of scientific studies detailing the toxic impacts of sulfide-ore mining to plants, animals, watersheds, and human health. You cited a lack of new scientific information as the reason for cancellation of the mineral withdrawal application. We reject your assertion that no new scientific information was found during the nearly 20-month period the Superior National Forest held public meetings, solicited comments, and worked to prepare the withdrawal package. Rather, the abrupt cancellation implies that the mounting evidence against mining that emerged did not support your position, and so, you instead chose to waste taxpayer funds, ignore public comments, and suppress scientific information rather than have this evidence revealed to the public.

This decision to cancel the withdrawal is not only dubious from an environmental perspective, but it also fails to be justified by an economic analysis. According to the Department of the Interior’s (DOI) own records, Twin Metals and its predecessors sat on the leases for 50 years without producing because they knew that this mine would not be profitable. Returns were predicted to be so small that

Interior officials offered the original lessee extremely low royalty rates and limited the leases to 20 years, conditioning the right to three ten-year renewals on the company starting production during those 20 years. The terms of the original 1966 lease language spelled this out explicitly, providing a right to three lease extensions on the same terms only if the lessee began production before the end of the primary term. Despite a low royalty rate, two renewals, and royalty waivers, Twin Metals produced nothing. Even the Reagan administration was skeptical these leases were worthy of a first discretionary renewal, questioning whether a lease should be renewed when production had yet to occur. Though the Obama administration denied a third renewal in 2016, Twin Metals still held these leases, without producing, for the maximum time the original lease terms would have allowed even with timely production: 50 years.

The bottom line is this: for more than half a century, Twin Metals and administrations from both parties have questioned the economic and environmental feasibility of hardrock mining leases in the Rainy River Watershed. Which begs the question: why push this operation now? Copper and nickel are not in short supply; they did not even make it on to your own administration's overly broad critical minerals list. During the same period in which you made the unsupported decisions to reinstate Twin Metals leases and cancel the Superior National Forest mineral withdrawal, your agencies completed and approved other mineral withdrawal applications without interference, including one in former Secretary Zinke's home state of Montana. These inconsistencies reinforce the perception that the driving motivation of your administration is to give away as many public lands and resources to corporate interests as possible.

The background of DOI's Principal Deputy Solicitor, Daniel Jorjani, is also a concern. Prior to issuing his convoluted and legally questionable Solicitor opinion reversing the expiration of Twin Metals' mining leases near the Boundary Waters, Jorjani made a career helping companies acquire energy investments in foreign countries. This is strikingly similar to what he is doing now: handing U.S. resources to Antofagasta, the Chilean owner of Twin Metals. Antofagasta met with Jorjani three times in the months leading up to the issuance of his Solicitor opinion in December 2017. Lastly, and in an interesting coincidence, this international mining giant is owned by the family of Andrónico Luksic: Ivanka Trump and Jared Kushner's Washington D.C. landlord.

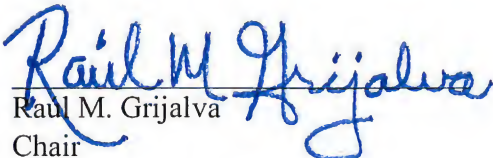
In sum, your actions regarding Twin Metals' copper sulfide mineral leases near the BWCAW appear to meet the definition of arbitrary and capricious. By halting the environmental review and reinstating Twin Metals' leases, your administration blatantly ignored scientific and economic evidence, the public record dating back fifty years, and overwhelming public opposition to mining in the watershed, and reneged on public pledges to Members of Congress. Finally, while we thank you for your minimal efforts in responding to our last letter, we ask that your response to this one be more comprehensive. To this end, please provide the following as soon as possible, but no later than April 1, 2019:


1. All documents and communications within and between employees and persons in the U.S. Department of Agriculture (USDA), USFS, DOI, BLM, and the White House regarding:
 - (a) the May 2018 decision to reinstate Twin Metals' leases and renewal application;
 - (b) the September 2018 decision to cancel the withdrawal application and associated environmental assessment; and
 - (c) the December 2018 decision to propose renewal of Twin Metals' leases.


2. All documents and communications forming the basis for the cancellation of the withdrawal application and the associated environmental assessment, including documents mentioned in the September 6, 2018, USDA press release announcing the cancellation, including:
 - (a) "A mineral resources report;"
 - (b) "An economic impact assessment;"
 - (c) "A biological impact assessment;"
 - (d) Assessments of the "potential impacts to water resources, wilderness areas, and cultural resources";
 - (e) A detailed list of all contracted work, including the scope and anticipated end date, that was part of the environmental assessment study;
 - (f) Any deliverables that the USDA, USFS, BLM, or DOI received as a part of the contracted environmental assessment work;
 - (g) All scientific reports or letters received by the USFS as part of the public feedback; and
 - (h) The dates and participants of all meetings taken by employees and persons at the USDA, USFS, BLM, DOI, or the White House on the topic of the Rainy River Watershed withdrawal proposal since January 20, 2017.
3. All documents and communications regarding additional pending or potential mineral actions in the Superior National Forest.

Please refer to the attached instructions on how to respond to this document request. As specified therein, upon completion of the document production, please submit a written certification that a diligent search has been completed and all responsive documents have been produced to the Committee. If you have any questions about this request, please contact Committee staff at (202) 225-6065.

Sincerely,


Raul M. Grijalva
Chair
House Natural Resources Committee


Betty McCollum
Chair
House Interior-Environment
Appropriations Subcommittee


Alan S. Lowenthal
Chair
Subcommittee on
Energy and Mineral Resources

Responding to Committee Document Requests

In responding to document requests from the Committee on Natural Resources, please apply the instructions and definitions set forth below:

Instructions

1. In complying with the request, you should produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data, or information should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization, or individual denoted in this request has been, or is currently, known by any other name than that herein denoted, the request should be read also to include them under that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., memory stick or thumb drive) in lieu of paper productions. Documents produced in electronic format should also be organized, identified, and indexed electronically. Consult with the Committee to determine the appropriate format in which to produce the information.
4. Each document produced should be produced in a form that renders the document capable of being copied.
5. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box, or folder is produced, each CD, hard drive, memory stick, thumb drive, box, or folder should contain an index describing its contents.
6. Documents produced in response to this request should be produced together with copies of file labels, dividers or identifying markers with which they were associated when this request was issued. To the extent that documents were not stored with file labels, dividers, or identifying markers, they should be organized into separate folders by subject matter prior to production.
7. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
8. It shall not be a basis for refusal to produce documents that any other person or entity also possesses a non-identical or identical copy of the same documents.

9. If compliance with the request cannot be made in full, compliance should be made to the extent possible and should include an explanation of why full compliance is not possible.
10. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
11. If any document responsive to this request was, but no longer is, in your possession, custody, or control, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
12. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
13. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.
14. All documents should be Bates-stamped sequentially and produced sequentially.
15. Documents produced to the Committee in response to this request should be delivered to majority staff in Room 1324 of the Longworth House Office Building.

Definitions

1. The term "**document**" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone calls, text messages, MMS or SMS messages, other mobile-to-mobile messages, instant messages or online chat messages, meetings or other communications; bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without

limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotape, recordings and motion pictures), and electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, memory sticks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "**documents in your possession, custody, or control**" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that you have placed in the temporary possession, custody, or control of any third party.
3. The term "**communication**" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, facsimile, mail, e-mail (desktop or mobile device), text message, MMS or SMS message, other mobile-to-mobile message, instant message or online chat, telexes, releases, personal delivery, or otherwise.
4. The terms "**and**" and "**or**" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
5. The terms "**person**" or "**persons**" means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.
6. The term "**identify**," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
7. The terms "**referring or relating**," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is in any manner whatsoever pertinent to that subject.
8. The term "**employee**" means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.